**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

Chapter VIII, Rule 32(2) (b)
Description of case
**Date of decision: 6th March, 2006**

**Sales Tax Revision No. 57 of 2002**
**(Old No. 1819/1992)**

The Commissioner Sales Tax
U.P. Lucknow .....Applicant/Revisionist

**Versus**

S/S Advance Engineering Works
22 Lyton Road, Dehradun .....Opposite Party/Respondent

.
Shri Pitamber Maulekhi, Additional Advocate General for the Revisionist.
Shri Pulak Raj Mullick, learned counsel for the respondent.

A.F.R. (Approved for Reporting)
Not approved for Reporting

(Hon. Mr. Justice Prafulla C. Pant)

Date: 06.03.2006

Note: Bench Reader will attach this at the top of first page of the judgment when it is put up before the Judge for signature.

**Judgment Reserved**

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Shri Pulak Raj Mullick, learned counsel for the respondent.

**Hon'ble Prafulla C. Pant, J.**

Heard learned counsel for the parties.

2. This revision is preferred under Section 11(1) of U.P. Sales Tax Act, 1948. It is directed against the judgment and order dated 18.08.1992, passed in Second Appeal No. 211 of 1992 by Sales Tax Tribunal, Dehradun. This revision is received by transfer for its disposal from Allahabad High Court under Section 35 of U.P. Reorganisation Act, 2000. The question of law involved in this case is as under:-

*Whether in the facts and circumstances of the case, the Sales Tax Tribunal has erred in law in holding that apparatus and instruments used by blind persons sold by the respondent dealer are covered under notification No. S.T. II 3714/X-6 (1)-85 U.P. Act 15/48 dated 05.06.1986.*

3. The dealer respondent carries business of buying and selling of equipments of braille system. The matter pertains to the assessment year 1987-88 for which the assessee has made interstate sale of Rs. 1360/- without form-C. The

Assessing Officer and First appellate Court found that the item is taxable and not covered for exemption under notification No. S.T. II 3714/X-6 (1)- 85 U.P. Act 15/48 dated 05.06.1986. However, in Second Appeal, the Sale Tax Tribunal took the view that the item is covered under aforesaid notification. Hence this revision preferred by the State.

4. Under Notification No. S.T. II-3714/X-6 (1)- 85 U.P. Act 15/48 dated 05.06.1986, following items were exempted from tax prior to 01.10.1994-

"*Maps, Educational Charts, Instrument Boxes, Educational Globes and Scientific, arithmetical, survey, mechanical drawing and biology instruments and apparatus including drawing scales, dusters, drawing boards, T squares, eraser and lead pencils.*"

After 01.10.1994, expression "*Including drawing scales, dusters, drawing boards, T squares, eraser and lead pencils*" was deleted but the present case relates to the period prior to 01.10.1994.

5. Learned counsel for the revisionist, argued that the tribunal has erred in law by treating the items used by blind persons, as covered under the above notification. In reply to this, learned counsel for the respondent argued that all the scientific instruments, whether used by blind students or not are covered under the notification. In the opinion of this Court, the notification in question, to understand its meaning is required to be read as a whole. All items mentioned there in as quoted above, relate to the students and educational institutions. Therefore, the items which are generally not used by students are not included for exemption under aforesaid notification. The blind students do use Braille

slates, Braille learning frames, stylus pens, Mathematical Taylor frames Abacus counting calculator. However, the items such as Braille pocket frames used by blind seniors or folding sticks used by all the blind men, are not the item which can be classified with the items mentioned in the notification dated 05.06.1985. In this regard, I agree with the view taken by lower first appellate authority that the items which are other than used only in schools by blind children, are taxable.

6. For reasons as discussed above, the question of law is answered in favour of the Revenue. And the revision is allowed accordingly to the extent above. The impugned judgment and order of the Sales Tax Tribunal shall stand partly set aside.

**(Prafulla C. Pant, J.)**

Dt: 6th March, 2006
Sweta